

Attorney Docket No. 807-005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of

Takashi et al.

Examiner: Alan Faber  
Group Art Unit: 2651

Serial No. 09/638,607

Filed: August 15, 2000

For: DATA REPRODUCTION APPARATUS

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**DECLARATION OF JOSEPH SOFER IN  
SUPPORT OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 CFR 1.181**

**Box DAC**

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

I Joseph Sofer declare that:

1. I am Partner in the firm of Sofer & Haroun L.L.P.
2. A power of attorney has been filed authorizing the firm of Sofer & Haroun L.L.P. to represent the Applicant.
3. On December 4, 2002 a Notice of Abandonment was issued for failure to respond to an April 11, 2002 Office Action.
4. After receiving the Notice of Abandonment we immediately reviewed the file and noted that the April 11, 2002 Office Action, indicated in the Notice of Abandonment, was never received.
5. A business routine for performing the clerical functions for responding to Patent Office requirements has been established by, and is diligently followed by, Sofer & Haroun, L.L.P. This business routine includes specific steps to be performed, including docketing and filing procedures which are performed by our docket clerk. They are, and could reasonably be,

relied upon to avoid errors in their performance.

6. In this business routine, after mail is received from the U.S. Patent and Trademark Office, it is opened immediately and entered in our incoming mail log book.

7. Subsequently, the mail is then transferred to the docket clerk to be entered into the computerized docket system, providing a second record of the item. The Office Action is then placed directly in the file and addressed as necessary.

8. As indicated in the accompanying Petition to Withdraw Holding of Abandonment, there is no record of the Office Action dated April 11, 2002, referenced in the Notice of Abandonment, neither in the incoming mail book, nor in the computerized docket system.

9. Applicants submit that as soon as the Notice of Abandonment was received, all reasonable steps were taken to promptly correct the abandonment of this application.

10. Therefore, in view of the foregoing statements, I hereby submit that the entire period of abandonment from the mailing of December 4, 2002 Notice of Abandonment to the filing of the accompanying grantable petition was unavoidable and that immediately upon discovery, we have moved to withdraw the holding of abandonment for this application.

I declare that all statements made above of my own knowledge are true and all statements made on information and belief are believed to be true; and these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully Submitted,

SOFER & HAROUN

By: 

Joseph Sofer  
Reg No. 34,438  
317 Madison Avenue  
Suite 910  
New York, NY 10017  
(212) 697-2800

Dated: \ 20/03



Attorney Docket No. 807-005

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Takashi et al.

Examiner: Alan Faber  
Group Art Unit: 2651

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**PETITION TO WITHDRAW HOLDING OF ABANDONMENT  
UNDER 37 CFR 1.181**

**Box DAC**

Hon. Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Dear Sirs:

Applicants hereby file this Petition to Withdraw Holding of Abandonment pursuant to 37 CFR 1.181.

Pursuant to 37 CFR 1.181(b), embodied herein is a concise statement of the pertinent facts and the necessary Exhibits to support this petition. It is asserted by the Applicants that no fee is due under this Petition to Withdraw Holding of Abandonment.

On January 29, 2002, Applicants filed an Amendment that was received at the U.S. Patent Office on February 19, 2002. A copy of the return postcard is attached hereto as Exhibit 1. A Notice of Abandonment was mailed on December 4, 2002 stating that the present

application went abandoned for failure to respond to the "Office letter" mailed on April 11, 2002. A copy of the Notice of Abandonment is attached hereto as Exhibit 2.


After receiving the Notice of Abandonment, Applicant's attorney immediately reviewed the file and noted that it contains no such Office Action. As a general practice, the undersigned law firm keeps a detailed record of all incoming mail from the U.S. Patent Office. A detailed Statement of the docketing procedures is attached hereto as Exhibit 3. A complete review of the records for all incoming mail in the months from April to June of 2002, failed to indicate that an Office Action was received. This Petition to Withdraw Holding of Abandonment has been prepared immediately and all reasonable steps have been taken to promptly correct the U.S. Patent Office mistake. Applicants respectfully submit that the U.S. Patent Office's abandonment of this Application is in error and that the April 11, 2002 Office Action was not received.

As such, Applicants submit this grantable Petition to Withdraw Holding of Abandonment and request that the Office of Petitions withdraw the abandonment of this Application and resend the April 11, 2002 Office Action so that a proper response can be made. Applicants authorize the U.S. Patent Office to charge any additional charges that may arise under this petition to deposit account No. 19-2825 order number 807-005.

Respectfully Submitted,

SOFER & HAROUN

By:

  
\_\_\_\_\_  
Joseph Sofer  
Reg No. 34,438  
317 Madison Avenue  
Suite 910  
New York, NY 10017  
(212) 697-2800

Dated: 1/20/03

# **EXHIBIT 1**

Commissioner of Patents & Trademarks  
Washington, D.C. 20231

Sir: Please stamp the date of receipt and the serial number, if appropriate, hereon, and return by mailing. Thank you.

Documents:

- 1)Response to Office Action
- 2)Certificate of Mailing
- 3)Return Postcard
- 4)Replacement Pages
- 5)Amendment Transmittal
- 6)Amendment to Drawings

Date Documents Mailed: January 29, 2002

-----For Application-----

Title: DATA REPRODUCTION APPARATUS

Serial No.: 09/638,607      Applicant: Takashi et al.

Art Unit: 2651      Filing Date: August 15, 2000

Docket No.: 807-005      Attorney: Joseph Sofer



*Handwritten signature/initials*

# **EXHIBIT 2**



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/638,607	08/15/2002	Terumi Takashi	807-005	1992

7590

12/04/2002

Sofer & Haroun LLP  
342 Madison Avenue Suite 1921  
New York, NY 10173

EXAMINER

FABER, ALAN

ART UNIT

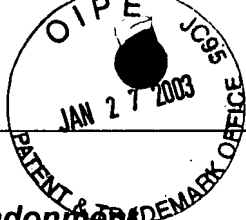
PAPER NUMBER

2651

DATE MAILED: 12/04/2002

Please find below and/or attached an Office communication concerning this application or proceeding.





# Notice of Abandonment

Application No.

09/638,607

Examiner

Alan Faber

Applicant(s)

TAKASHI ET AL.

Art Unit

2651

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 11 April 2002.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☒ The reason(s) below:

During a telephone conversation with the examiner on 12/2/02, applicants' attorney, Mr. Sofer, noted that the office action of 11 April 2002 had not been received. The examiner noted MPEP 711.03(c), page 700-140 regarding a petition to revive.

Alan Faber  
Primary Examiner  
Art Unit: 2651

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

# **EXHIBIT 3**